

RESOLUTION NO. D8-2007

A RESOLUTION BY THE MONROE COUNTY DEVELOPMENT REVIEW COMMITTEE RECOMMENDING THAT THE PLANNING COMMISSION APPROVE AMENDMENTS TO THE MONROE COUNTY COMPREHENSIVE PLAN INCLUDING SECTIONS OF THE FUTURE LAND USE AND CONSERVATION AND COASTAL MANAGEMENT ELEMENTS REGARDING RECREATIONAL AND COMMERCIAL WORKING WATERFRONTS

WHEREAS, Monroe County's working waterfronts provide practical, logistical, and economic benefit to the public and to the County's economy and character, and;

WHEREAS, Monroe County is experiencing the loss of recreational and commercial working waterfront and the loss of public access to the water due to the redevelopment of marine facilities, including, but not limited to marinas, boatyards, wet and dry storage, fish houses and commercial fishing vessel dockage, at an unprecedented rate, and;

WHEREAS, it is important to preserve an acceptable level of working waterfront while still allowing an appropriate mix of water dependent and non-water dependent uses, and;

WHEREAS, fundamental elements of working waterfronts should be preserved to ensure that the ongoing need for working waterfronts is not exacerbated by non-water dependent development or redevelopment of water dependent facilities currently provided in numerous land use districts and distributed throughout Monroe County, and;

WHEREAS, the State of Florida 2005 Waterway and Waterfront Improvement Act requires coastal counties to amend their comprehensive plans to include regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts and;

WHEREAS, the Board of County Commissioners makes the following Findings of Facts:

1. On July 20, 2005 the Board of County Commissioners adopted Ordinance No. 017-2005 deferring the acceptance of development applications for the redevelopment and conversion of marine facilities until land development regulations which protect the working waterfront are drafted.
2. Ordinance No. 17-2005 directed staff to enter into an interlocal agreement with the South Florida Regional Planning Council to prepare a *Marine Management Strategic Plan*.

3. The Board of County Commissioners adopted the *Marine Management Strategic Plan* on March 15, 2006.
4. On September 30, 2006, the Board of County Commissioners directed staff to enter into an interlocal agreement with the South Florida Regional Planning Council to develop implementation strategies for the *Marine Management Strategic Plan* including a Working Waterfronts Preservation Master Plan, Marina Siting Plan, Comprehensive Plan Amendments and supporting Land Development Regulations, and a database of marine-related facilities.
5. On March 21 and April 3, 2007 the Board of County Commissioners heard progress reports on the development of the proposed amendments, paying particular attention to the concept of “no net loss.”
6. On May 21, 2007 the Board of County Commissioners adopted Volume II of the Stock Island/Key Haven Livable CommuniKeys Master Plan which recommends preservation of the working waterfronts and public access.

WHEREAS, if the Comprehensive Plan and Land Development Regulations are not amended to control certain conversions and redevelopments, future losses of recreational and commercial working waterfront and public access will negatively affect the economy and bring an end to critical marine services (e.g. boat yards), marinas that are available to the public, and traditional trades associated with commercial fishing; and

WHEREAS, Goal 212 of the 2010 Comprehensive Plan directs the County to prioritize shoreline land uses and establish criteria for shoreline development in order to preserve and enhance coastal resources and to ensure the continued economic viability of the County; and

WHEREAS, Goal 213 of the 2010 Comprehensive Plan directs the County to ensure adequate public access to the beach or shoreline; and

WHEREAS, Objective 502.1 of the 2010 Comprehensive Plan directs the County to promote the preservation and enhancement of the existing ports and port related activities, and;

WHEREAS, the Board of County Commissioners has considered the comments of the public, input from the Marine and Port Advisory Committee, recommendations of staff and other matters, and;

WHEREAS, The staff report presented to the Development Review Committee on May 21, 2007 concluded that the proposed amendments are internally consistent with other elements of the Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED BY THE DEVELOPMENT REVIEW COMMITTEE OF MONROE COUNTY, FLORIDA:

Section 1. In consideration of the staff report and the preceding findings of fact and conclusions of law, the Development Review Committee recommends to the Planning Commission approval of the following proposed amendments to the Monroe County Comprehensive Plan.

[Amendments are presented in ~~strike through~~ to indicate deletions and underline to indicate additions to text. All other words, characters, and language of this subsection remain un-amended.]

Section 2.

Amend Future Land Use Element Objective 101.4 as follows:

Monroe County shall regulate future development and redevelopment to maintain the character of the community and protect the natural resources by providing for the compatible distribution of land uses consistent with the designations shown on the Future Land Use Map. [9J-5.006(3)(b) 3]

Policy 101.4.5

The principal purpose of the Mixed Use/ Commercial land use category is to provide for the establishment of commercial zoning districts where various types of commercial retail and office may be permitted at intensities which are consistent with the community character and the natural environment. Employee housing and commercial apartments are also permitted.

The maintenance and enhancement of commercial fishing, sport fishing, charter boats and related traditional water dependent and water related uses such as retail, storage, and repair and maintenance which support the fishing industry shall be encouraged within this land use category (pursuant to Policy 219 of this Plan).

This land use category is also intended to allow for the establishment of mixed use development patterns, where appropriate. Various types of residential and non-residential uses may be permitted; however, heavy industrial uses and similarly incompatible uses shall be prohibited. In order to protect environmentally sensitive lands, the following development controls shall apply to all hammocks, pinelands, and disturbed wetlands within this land use category:

1. only low intensity commercial uses shall be allowed;
2. a maximum floor area ratio of 0.10 shall apply; and
3. maximum net residential density shall be zero.

Policy 101.4.6

The principal purpose of the Mixed Use/ Commercial Fishing land use category is to provide for the maintenance and enhancement of commercial fishing, sport fishing, and charter boats and related traditional water dependent and water related uses such

as retail, storage, and repair and maintenance which support the fishing industry. Residential uses are also permitted. Residential dwelling units designated as affordable and employee housing shall be encouraged in Mixed Use/Commercial Fishing. In order to protect environmentally sensitive lands, the following development controls shall apply to all hammocks, pinelands, and disturbed wetlands within this land use category:

1. only low intensity commercial uses shall be allowed
2. a maximum floor area ratio of 0.10 shall apply; and
3. maximum net residential density shall be zero, except in the case of employee or affordable housing. [9J-5.006(3)(c)1 and 7]

Policy 101.4.7

The principal purpose of the Industrial land use category is to provide for the development of industrial, manufacturing, and warehouse and distribution uses. Other commercial, public, residential, and commercial fishing-related uses are also allowed. [9J-5.006(3) (c) 1 and 7]

Within the Industrial land use category shall be a Maritime Industries District. The purpose of the MI district is to establish and conserve areas suitable for maritime uses such as ship building, ship repair and other water dependent manufacturing and service uses.

Section 3.

Amend the Conservation and Coastal Management Element as follows:

Goal 219 -- Community Character and Preservation of Recreational and Commercial Working Waterfronts

It is the intent of the County to promote the responsible management of its coastal area, and to balance the protection of recreational and commercial working waterfronts with the provision of water-related recreational activities and with the preservation of coastal and natural resources.

Objective 219.1

Monroe County shall implement a strategy that provides regulatory incentives and criteria to encourage the preservation of recreational and commercial working waterfronts.

Policy 219.1.1

The County shall encourage the maintenance and enhancement of community character, public values and traditional uses on the waterfront. To accomplish this, the County shall adopt land development regulations to:

1. Protect the working waterfront by establishing that commercial fishing activities are an important community value and that impacts associated

with these uses are normal and compatible with other uses of the waterfront.

2. Develop a Commercial Fishing Sustainability Plan to determine current and future needs for the continued viability of the commercial fishing industry.
3. Support the continuation of programs that provide historical and educational information and training in the marine and commercial fishing industries.
4. Support mixed use development adjacent to marinas which provides a range of services and activities for boaters and their families, including restaurants, shops, and other activities for residents and visitors.
5. Ensure public access and creation of public spaces in the redevelopment of marine facilities through the provision of pedestrian access along the shoreline, protection of view sheds, and creation of public open space, subject to reasonable limits.
6. Variances under the Commercial Fishing Area District, Commercial Fishing Village District and the Commercial Fishing Special District shall be granted to enable traditional uses, such as public access and commercial fishing to continue.
7. Non-conforming structures existing that are lawfully established and located within the Mixed Use/Commercial Fishing category, as indicated on the Future Land Use Map, may be rebuilt if damaged or destroyed, provided that they are rebuilt to the preexisting use, building footprint and configuration without increase in density or intensity of use.

Policy 219.1.2

The strategy to protect working commercial and recreational private and public waterfronts shall include but not be limited to the following actions:

1. Redevelopment of waterfront properties shall be devoted primarily to water dependent uses.
2. Land development regulations shall ensure that the development intensity devoted to commercial marine services and public access is not reduced over time.
3. Investing directly in property preservation, either through purchase of property or purchase of the development rights to the property;
4. Consider exploring a concept similar to TDRs to “transfer” marine uses to other suitable sites;

Policy 219.1.3

The County shall not vacate, diminish, or otherwise impair publicly-owned pathways, sidewalks, roads, ends of roads, parking areas, docks or boat launching facilities, and other access points that are currently used, or susceptible to use by the public to access the shorelines.

Policy 219.1.4

The County shall collaborate and coordinate with Keys municipalities, mainland coastal counties and municipalities, and State and Federal agencies on issues affecting recreational and commercial working waterfronts.

1. Participating in Waterfronts Florida Partnership Program. This program helps participating communities develop a plan to revitalize, renew and promote interest in their waterfront districts;
2. Ensure consistent and coordinated implementation of the Stock Island Livable CommuniKeys Plan and the Comprehensive Plan, LDRs, and other activities designed to preserve the working waterfront.
3. Coordinate with the Florida Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission (FWC) to implement the recommendations of the 2006 Recreational Boating Access in Florida State Parks study to increase recreational boating access within the state parks located in Monroe County.
4. Coordinate with municipalities in Monroe County and Miami-Dade County, the Florida Department of Community Affairs (DCA) / Area of Critical State Concern Program, the Florida Department of Transportation, NOAA/ Florida Keys National Marine Sanctuary, Everglades National Park, Biscayne National Park, and Florida Sea Grant.

Section 4.

Amend GOAL 212 as follows:

Monroe County shall prioritize shoreline land uses and establish criteria for shoreline development in order to preserve and enhance coastal resources and to ensure the continued economic viability of the County. [9J-5.012(3)(a); 9J-5.013(2)(a)]

Objective 212.4

~~By January 4, 1998, Monroe County shall complete an analysis of the need for additional marina facilities and shall develop criteria for marina siting which shall meet or exceed state standards. [9J-5.012(3)(b)1,2 and 3; 9J-5.013(2)(b)2]~~ Monroe County shall adhere to criteria set forth in the *Marina Siting Plan* for the development of new marinas and the redevelopment and expansion of current marine facilities. In general, development of new marinas and redevelopment and expansion of current marinas shall be located in areas where maximum physical advantages exist and where no unreasonable or excessive impacts are foreseen on marine resources.

Policy 212.4.1

~~New marinas having three (3) or more slips shall be prohibited until:~~

- ~~1. a marina survey is completed; and~~
- ~~2. marina siting criteria are adopted by Monroe County and approved by DER, DNR and ACOE. [9J-5.012(3)(c)1,2,3 and 8; 9J-5.013(2)(c)1 and 6]~~

Policy 212.4.2

~~Monroe County shall complete a survey of all existing recreational and commercial marinas. Such survey shall include, at a minimum:~~

- ~~1. number of wet and dry slips;~~
- ~~2. usage rates of wet and dry slips;~~
- ~~3. breakout of slips by boat size;~~
- ~~4. on-site amenities including the number of parking spaces;~~
- ~~5. surrounding uses and any known or potential compatibility problems;~~
- ~~6. availability for public use (recreational marinas only);~~
- ~~7. number of boat ramps provided and the boat lanes for each ramp;~~
- ~~8. condition of facilities;~~
- ~~9. existing DER-accepted documentation of water quality trends;~~
- ~~10. availability of pump-out facilities; and~~
- ~~11. potential for marina expansion according to siting criteria (See Policy 212.4.3).~~

~~[9J-5.012(3)(c)1,2,3 and 8; 9J-5.013(2)(c)1 and 6]~~

Policy 212.4.3

~~Monroe County shall develop and adopt marina siting criteria. In general, marinas shall be located in areas where maximum physical advantages exist and where no unreasonable or excessive impacts are foreseen on marine resources. Marina construction shall not involve destruction of any significant marine wetlands or seagrass beds.~~

~~Specific criteria for marina siting expansion shall be developed consistent with DER Rule 17-312, F.A.C., DNR Rule 18-21.004 F.A.C., and regulations of ACOE. They shall reflect consideration of the following:~~

- ~~1. access to deep water through existing channels of adequate depth (See Policy 212.5.2);~~
 - ~~2. benthic vegetation and faunal assemblages;~~
 - ~~3. impact of boats on crocodiles, manatees, and turtles.~~
- ~~[9J-5.012(3)(c)1,2,3 and 8; and adequacy of circulation and tidal flushing.~~

~~Other factors to be considered include:~~

- ~~1. minimization of shoreline modification and~~
- ~~2. location of propeller dredging problem areas.~~

Policy 212.4.4.1

Applicants for development approval of marinas with three (3) or more slips shall meet the following:

1. Monroe County's marina siting criteria set forth in the Monroe County Marina Siting Plan (See Policy 212.4.3);
2. Monroe County's dock siting criteria (See Objective 212.5 and related policies), and;
3. criteria of Rule 17-312 Part IV and Rule 18-21.004, F.A.C. [5.012(3)(c)1,2,3 and 8; 9J-5.013(2)(c)1 and 6]

Policy 212.4.5.2

Applicants for development approval of docking facilities for fewer than three (3) slips shall meet the following criteria:

1. Monroe County's dock siting criteria (See Objective 212.5 and related policies); and
2. Criteria of Rule 17-312 Part IV and Rule 18-21.004, F.A.C. [9J-5.012(3)(c)1,2,3 and 8; 9J-5.013(2)(c)1 and 6]

Policy 212.4.6

~~Siting of new marinas with three (3) or more slips shall be prohibited until full utilization of existing marinas has occurred within a five (5) mile radius of a proposed new marina site. [9J-5.012(3)(c)1,2,3 and 8; 9J-5.013(2)(c)1 and 6]~~

Policy 212.4.7.3

Applicants for a permit to develop a new marina or expand an existing marina facility shall obtain necessary permits from all applicable state and federal regulatory agencies prior to issuance of a County permit. [9J-5.012(3)(c)1,2,3 and 8; 9J-5.013(2)(c)1 and 6]

Section 5.

Amend GOAL 213 as follows:

Monroe County shall ensure adequate public access to the beach or shoreline. [9J-5.012(3)(a); 9J-5.013(2)(a)]

Objective 213.1

Monroe County shall maintain and increase the amount of public access to the beach or shoreline consistent with the estimated public need and environmental constraints. [9J-5.012(3)(b)9]

Policy 213.1.1

Monroe County shall complete a Public Access Plan for unincorporated Monroe County. The Public Access Plan shall estimate the existing capacity of and need for the following types of public access facilities:

1. public access points to the beach or shoreline through public lands;
2. public access points to the beach or shoreline through private lands;
3. parking facilities for beach or shoreline access;
4. coastal roads and facilities providing scenic overlooks;
5. marinas;
6. boat ramps;
7. public docks;
8. fishing piers; and
9. traditional shoreline fishing areas. [9J-5.012(3)(c)9]

Policy 213.1.2

Monroe County shall adopt Land Development Regulations which:

1. implement recommendations of the Public Access Plan;
2. provide for the enforcement of public access to beaches renourished at public expense by prescription, prescriptive easement, or any other legal means;
3. provide for the enforcement of public access requirements of the Coastal Zone Protection Act of 1985;
4. specify standards for transportation and parking facilities for beach and shoreline access;
5. include environmental design criteria which reflect environmental constraints. [9J-5.012(3)(c)9]
6. ensure adequate public access to public facilities including boat ramps, docks, and fishing piers and bridges. [F.S. 342.07 (2006)].

Recommended by the Monroe County Development Review Committee on the 21st day of May, A.D., 2007.

By:  _____

Date: 6-11-07

Aref Joulani, Director of Planning and Environmental Resources